

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature -- Second Regular Session

MINUTES RECEIVED
CHIEF CLERK'S OFFICE

3-22-16

COMMITTEE ON BANKING AND FINANCIAL SERVICES

Report of Regular Meeting
Tuesday, March 15, 2016
House Hearing Room 3 -- 2:00 p.m.

Convened 4:51 p.m.

Recessed

Reconvened

Adjourned 5:44 p.m.

Members Present

Mr. Allen J
Mr. Espinoza
Mr. Farnsworth E
Mrs. Gabaldon
Ms. McCune Davis
Mrs. Norgaard
Mr. Weninger, Vice-Chairman
Mrs. Brophy McGee, Chairman

Members Absent

Agenda

Original Agenda -- Attachment 1

Request to Speak


Report -- Attachment 2

Presentations

| <u>Name</u> | <u>Organization</u> | <u>Attachments (Handouts)</u> |
|--------------------------|-------------------------------|-------------------------------|
| Director Michael Trailor | Arizona Department of Housing | 3 |

Committee Action

| <u>Bill</u> | <u>Action</u> | <u>Vote</u> | <u>Attachments (Summaries, Amendments, Attendance)</u> |
|-------------|----------------------|-------------|--|
| SB1345 | DP | 7-0-0-1 | 4, 5 |
| SB1356 | DP | 5-2-0-1 | 6, 7 |
| SB1413 | DP | 7-0-0-1 | 8, 9 |
| | Committee Attendance | | 10 |



Sarah Griffith, Chairman Assistant
March 22, 2016

(Original attachments on file in the Office of the Chief Clerk; video archives available at <http://www.azleg.gov>)

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

Conv: 4:51 p.m.
Adj: 5:44 p.m.

REGULAR MEETING AGENDA

COMMITTEE ON BANKING AND FINANCIAL SERVICES

DATE Tuesday, March 15, 2016

ROOM HHR 3

TIME 2:00 P.M.

Members:

Mr. Allen J
Mr. Espinoza
Mr. Farnsworth E

Mrs. Gabaldón
Ms. McCune Davis
Mrs. Norgaard

Mr. Weninger, Vice-Chairman
Mrs. Brophy McGee, Chairman

Overview of the Arizona Department of Housing by Director Michael Traylor, Arizona Department of Housing

| Bills | Short Title | Strike Everything Title |
|--------|---|-------------------------|
| SB1345 | <u>DP</u> state judgment liens; effect; information (Farnsworth D, Cardenas: Contreras, et al) | |
| | <u>7-0-0-1</u> BFS, RULES | |
| SB1356 | <u>DP</u> business entities; shareholders; officers; directors (Worsley, Coleman: Brophy McGee, et al) | |
| | <u>5-2-0-4</u> BFS, RULES | |
| SB1413 | <u>DP</u> fiduciary access to digital assets. (Driggs, Worsley, Brophy McGee, et al) | |
| | <u>7-0-0-1</u> BFS, RULES | |

ORDER OF BILLS TO BE SET BY THE CHAIRMAN

SG
3/9/16

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

Information Registered on the Request to Speak System

House Banking and Financial Services (3/15/2016)

SB1345, state judgment liens; effect; information

Testified in support:

Courtney McKinstry, AZ ATTORNEY GENERAL'S OFFICE

SB1356, business entities; shareholders; officers; directors

Testified in support:

Scott DeWald, representing self

Support:

Lori Lustig, Arizona Corporation Commission; Mike Huckins, GREATER PHOENIX CHAMBER OF COMMERCE; Garrick Taylor, Arizona Chamber Of Commerce And Industry; William Clark, representing self

All Comments:

Scott DeWald, Self: SB 1356 makes changes to laws applicable to business entities in Arizona that will benefit Arizona businesses by facilitating electronic board and shareholder meetings and consents, and allow shareholder agreements to last as long as parties agree.

SB1413, fiduciary access to digital assets.

Testified in support:

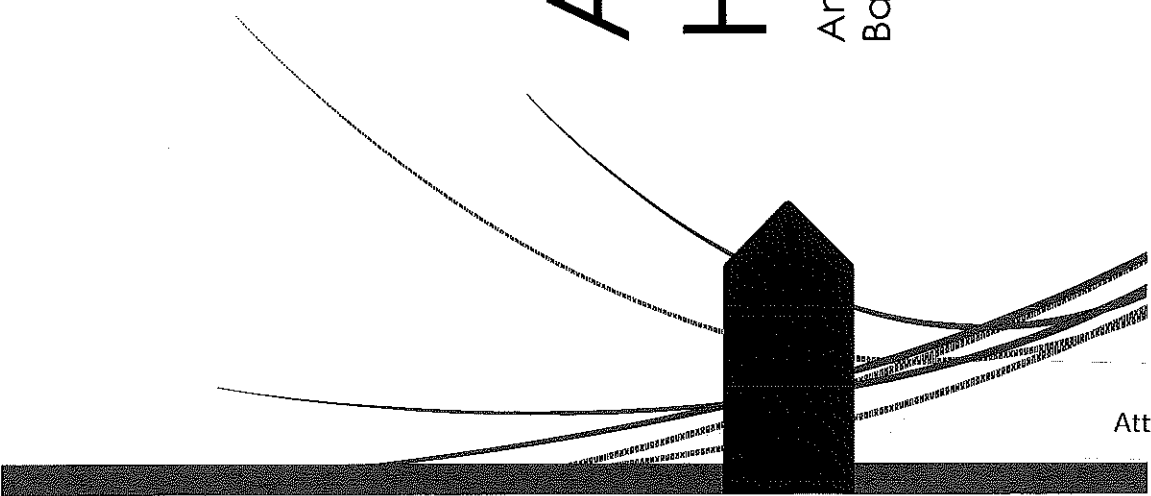
Alexis Glascock, Arizona Laws Commission

Support:

Jay Kaprosoy, Arizona Bankers Association; Timothy Berg, representing self

All Comments:

Alexis Glascock, Arizona Laws Commission: We support SB1413 the Financial Access to Digital Assets Bill.; Timothy Berg, Self: On behalf of the Arizona Laws Commission, we support the Financial Access to Digital Assets bill.



Arizona Department of Housing

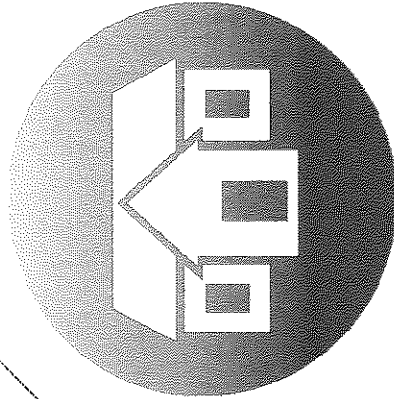
An Overview Presentation for the House of Representatives Committee on
Banking and Financial Services



About the Arizona Department of Housing

- ▶ Established in 2002
- ▶ Majority of agency's programs are federally funded
 - ▶ No money from the state General Fund!
- ▶ ADOH does not own or build housing but rather manages funding for the programs through for profit and non-profit developers, faith based organizations, service organizations, and state, county and city entities who apply for funding and meet criteria developed by state and federal law.

FY 2015 ADOH Achievements



37,493
ARIZONANS
PROVIDED
HOUSING
ASSISTANCE

DURING FY 2015

Arizona Department of Housing (ADOH)

Arizona Housing Finance Authority (AzHFA)

Arizona Home Foreclosure Prevention Funding Corporation (AHFPFC)



made commitments of

\$459 million

in state and federal assistance

families received
foreclosure prevention
assistance

2,023



ADOH Programs

- ▶ Rental Development Programs
- ▶ Rental Assistance
- ▶ Home Ownership Assistance
- ▶ Housing Rehab
- ▶ Foreclosure Prevention
- ▶ Homeless Prevention
- ▶ Community Development Block Grants
- ▶ Manufactured Housing (Proposed in FY 2017 Executive Budget)

Rental Development Programs

\$184,000,000

million

IN FINANCING
TO SUPPORT
1,607 AFFORDABLE
RENTAL UNITS

\$73 MILLION

used to assist

967 units

THROUGH ACQUISITION
AND REHABILITATION

\$110.5 MILLION

used toward the
construction of

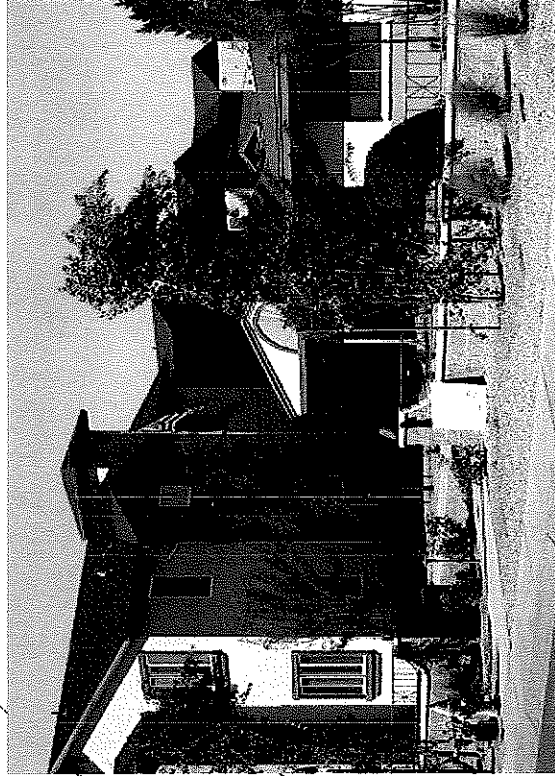
640 units

of new construction

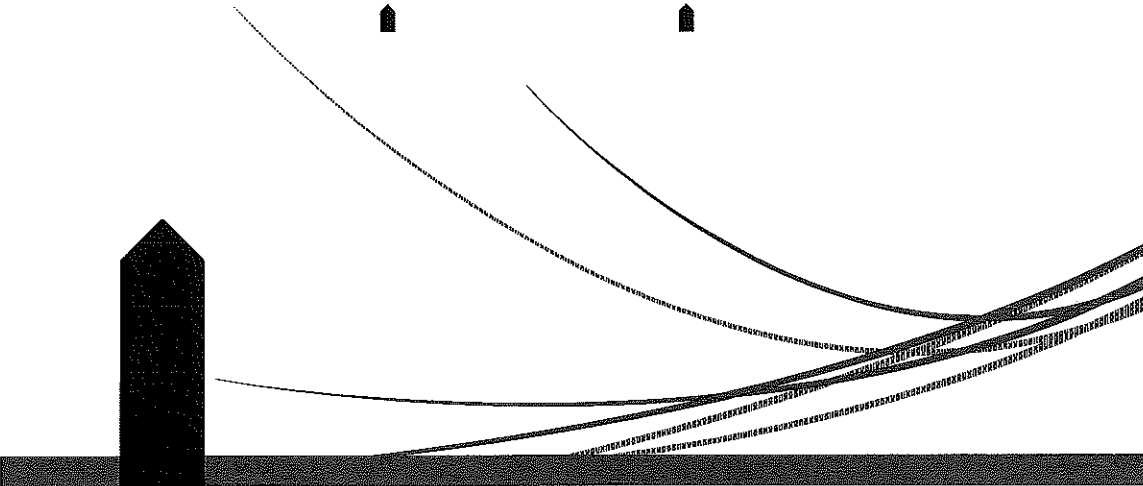
ADOH provides on-going monitoring for rental development programs and currently monitors thousands of rental units for federal and state compliance purposes.

Rental Programs

Victory Place



This 5 acre campus in the South Mountain Village of Phoenix is comprised of 70 VA Grant and Per Diem transitional housing beds operated by United States Veterans Initiative (U.S. VETS). Victory Place contains 107 units of permanent housing with support services provided by U.S. VETS and the Phoenix VA Healthcare for Homeless Veterans program.



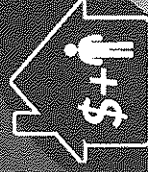
Rental Programs A Boost to the Economy

- The estimated one-year local impact of building 100 multifamily units in a typical tax credit project include:
 - \$7.3 million in local income
 - \$783,000 in taxes and other revenue for local governments
 - 151 local jobs
- The additional, annually recurring impacts of building 100 multifamily units in a typical tax credit project include:
 - \$2.2 million in local income
 - \$372,000 in taxes and other revenue for local governments
 - 38 local jobs

Rental Assistance

FY 2015
9,251 EXTREMELY
LOW-INCOME ARIZONANS
WERE ASSISTED WITH
THEIR MONTHLY RENT

**\$57
million**



**IN RENTAL
ASSISTANCE
PAYMENTS**

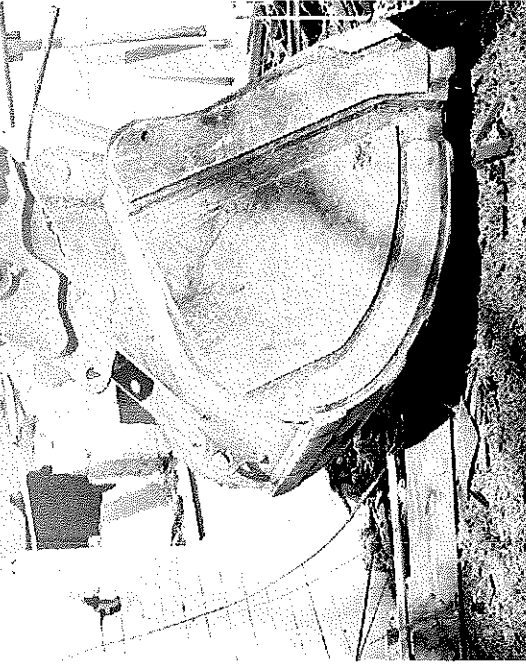


Homeownership Assistance

- ▶ The HOME Plus Home Loan Program provides an attractive 30-year fixed-rate mortgage with a down payment assistance (DPA) grant ranging from 2% - 5% depending upon the underlying mortgage type.
- ▶ The DPA assistance is a true grant, with no repayment terms or conditions.
- ▶ ADOH hopes to reach 2,100 homeowners this fiscal year through down payment assistance!

USING ARIZONA'S HFA
SINGLE FAMILY LOAN PROGRAM

**1.050 Became
Homeowners**



Homeownership Assistance Home Plus Success Stories



Karlle and Michael Piercy, Chandler, AZ

"I didn't think it was a possibility because everyone says you need 20 percent down, and I was thinking 20 percent of what we got now, no way."—Michael Piercy.

Don't Just Take Our Word For It--What Arizonans Are Saying About Home Plus:

Lenders

- ▶ "We love that you have taken our critical feedback and expanded the program in positive ways to make it a much more solid program for both your homebuyers and business partners." Michael Certo, AmeriFirst Financial, Inc.
- ▶ "Thanks for reaching out to us for input on your programs. Needless to say, we don't see that happen very often from our governmental "partners."" Tom Osselaer, Homeowners Financial Group

Homebuyers

- ▶ "My family is receiving a grant for our down payment which without we would not be able to purchase our beautiful new home." The Garcia Family
- ▶ "This is a much appreciated program for veterans. God bless you for helping me and helping veterans." Renee Delu
- ▶ "After years of renting, we decided that we wanted to establish our roots here and raise our family in "our home." This program has enabled us to realize that dream." Keith Heise

Housing Rehabilitation



Over \$5 million in federal funding for rehabilitation assistance in FY 2015!

Golden Valley Mobile Home Rehab: Before and After

"[Now] I was not afraid to walk on my front porch...I was warm in my own home. Do you know what that feels like? Most people take it for granted when you live without for so many years and then get it, it's a renewal in life. Thank you don't express my gratitude enough."—Harold L. Dondanville



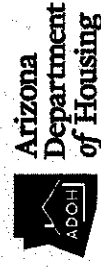
Foreclosure Prevention

In FY 2015 the agency was able to provide counseling and financial assistance to 2,023 families.

MORTGAGE UNDERWATER?

Homeowners who played
by the rules have a lifeline.

AZHousing.gov
or 1-877-448-1211



FORECLOSURE
HOTLINE
assisted over
1,222
households

Foreclosure Prevention



Raymond and Lidia Correale, Gold Canyon, AZ

"We are so grateful for your kind help! Our difficulties were so hard to manage due to the loss of our jobs in 2011. Because of the assistance and genuine empathy we were able to manage keeping our home and American Dream we worked so hard for. We are now feeling a sense of self esteem again instead of constant fear and pressure from those terrible feelings and hardships. Words are not enough to express our deep appreciation for all your hard work and help."

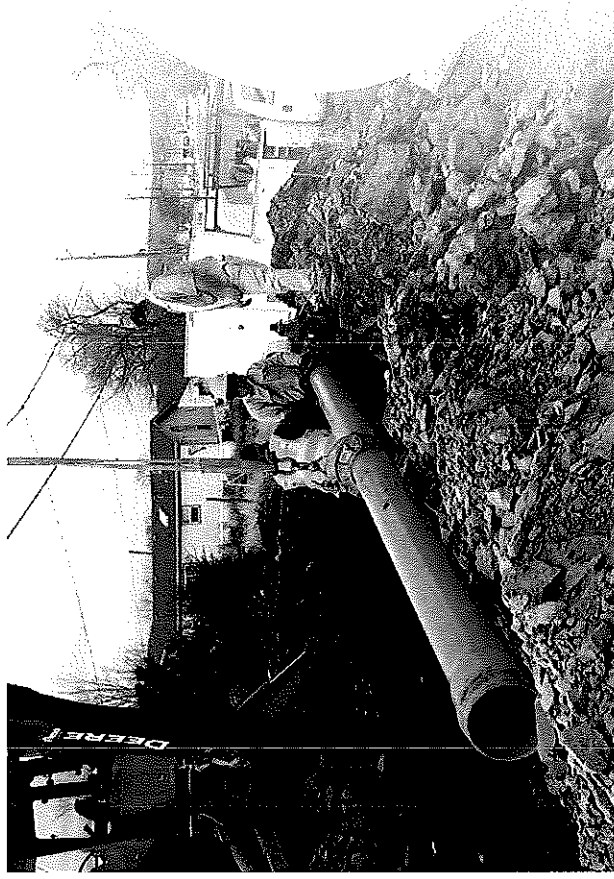
Homeless Prevention

► ADOH's ability to forge partnerships has increased productivity of 43 supportive housing programs in rural Arizona.

► In FY 2015, ADOH was able to commit over \$1.15 million in resources through state and federal funding to homeless prevention programs.



Community Development Block Grants (CDBG)

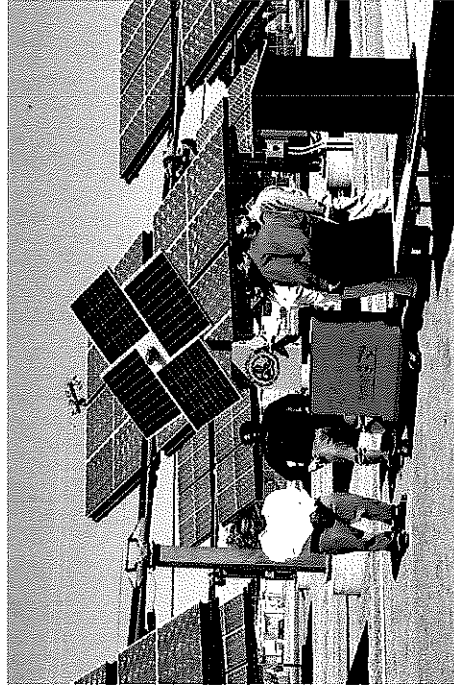
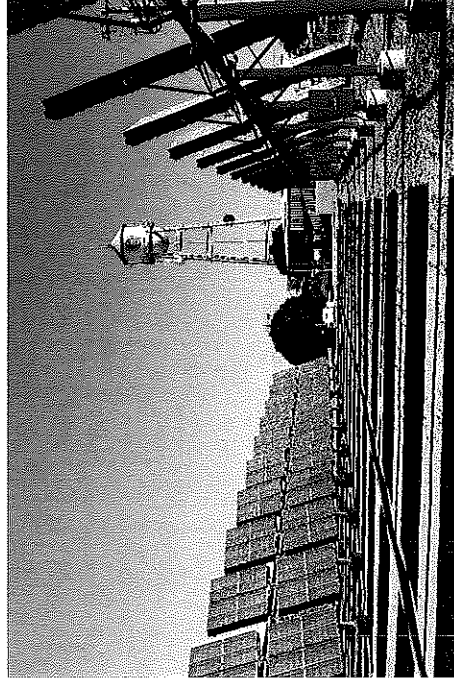


Helping Rural Arizona to Thrive

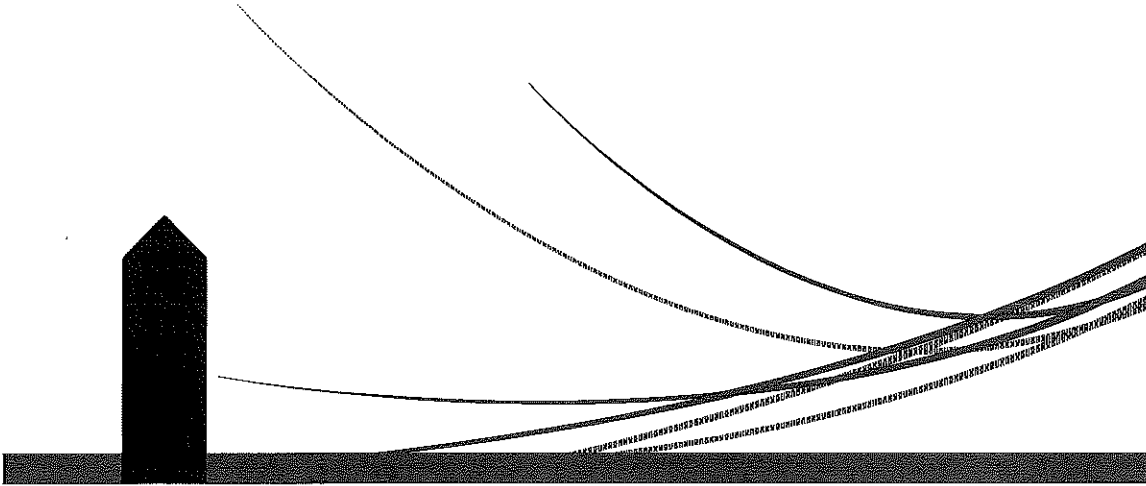
Somerton: A Solar Success

ADOH, through the CDBG program, helped to install 68 new solar panels to power the city's water treatment plant and reduce operating costs.

The concentrated photovoltaic system which was installed produced a savings of \$60,000 dollars in energy costs in its first year. Without the assistance of the solar project the City would have been in the process of conducting public hearings on raising water rates for everyone in the community.



Conclusion





HOUSE OF REPRESENTATIVES

SB 1345

state judgment liens; effect; information

Prime Sponsor: Senator Farnsworth D, LD 16

X Committee on Banking and Financial Services

Caucus and COW

House Engrossed

OVERVIEW

SB 1345 makes state-obtained civil judgments filed with the county recorder permanent, and excludes certain information contained in an information statement

PROVISIONS

1. Specifies a civil judgment lien obtained by the state becomes a permanent lien on real property until satisfied or lifted.
2. Exempts a civil judgment obtained by the state from requiring an information statement to contain certain information regarding the judgment debtor.
 - a. Applies retroactively to January 1, 1997.
3. Makes clarifying changes.

CURRENT LAW

Pursuant to A.R.S. § 33-964 a judgement shall become a lien on real property for a period of five years from the date ordered, except for a judgment lien for support which remains in effect until satisfied or lifted. A judgment cannot become a lien on a homestead property.

Pursuant to A.R.S. § 33-967 any judgement recorded on or after January 1, 1997, must include an information statement containing the following:

- a. The correct name and last known address of each judgement debtor;
- b. The name and address of the judgement creditor;
- c. The most current amount of the judgement;
- d. The judgement debtor's social security number, date of birth, driver license number; and
- e. Indicate whether a stay of enforcement has been ordered and the date the stay expires.

Attachment 4

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

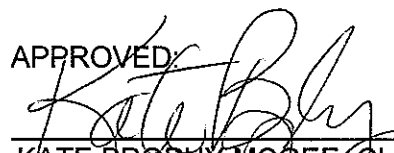
ROLL CALL VOTE

COMMITTEE ON BANKING AND FINANCIAL SERVICES BILL NO. SB 1345

DATE March 15, 2016 MOTION: DP

| | PASS | AYE | NAY | PRESENT | ABSENT |
|-----------------------------|------|-----|-----|---------|--------|
| Mr. Allen J | | ✓ | | | |
| Mr. Espinoza | | ✓ | | | |
| Mr. Farnsworth E | | | | | ✓ |
| Mrs. Gabaldón | | ✓ | | | |
| Ms. McCune Davis | | ✓ | | | |
| Mrs. Norgaard | | ✓ | | | |
| Mr. Weninger, Vice-Chairman | | ✓ | | | |
| Mrs. Brophy McGee, Chairman | | ✓ | | | |
| | | 7 | 0 | 0 | 1 |

APPROVED:


KATE BROPHY MCGEE, Chairman
JEFF WENINGER, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 5



HOUSE OF REPRESENTATIVES

SB 1356

business entities; shareholders; officers; directors

Prime Sponsor: Senator Worsley, LD 25

X Committee on Banking and Financial Services

Caucus and COW

House Engrossed

OVERVIEW

SB 1356 makes revisions to statute relating to corporate actions, liabilities, remote communications, proxies, and shareholder agreements.

PROVISIONS

Corporation Liabilities

1. Specifies any person acting as or on behalf of a corporation that knew or should have known that the corporation has not been formed is liable for all debts and liabilities incurred by the act.
2. States any person who acts as an officer or a director and who knew or should have known that the person did not have the authority to act is liable for all debts and liabilities incurred by the act.
 - a. Exempts a person who acts on behalf of a corporation that has been administratively dissolved without the person knowledge of dissolution.
3. Limits the persons who may bring action or assert a claim against a corporation, its directors or officer to the corporation, a shareholder, or a persons specified in the bylaws of a corporation with respect to the following actions or claims:
 - a. The decision or failure of the corporation to pursue or create a nonmonetary purpose, or
 - b. A director's or officer's violation of an obligation, duty or standard of conduct to consider the effect of an act or omission by a corporation on a nonmonetary purpose.
4. Exempts a corporation, its directors and officers from liability relating to monetary damages resulting from any decision or failure of the corporation to pursue or create any nonmonetary purpose.
5. Specifies any person that authorizes or signs a report, certificate, notice or other document with respect to a corporation, or a limited liability company, and has knowledge at the time of delivery to the Arizona Corporation Commission (ACC) that the information is materially false or misleading is liable to the corporation and its creditors for all damages resulting.
 - a. An action for liability must be commenced within two years after discovery of a false statement, but not later than six years after the document was filed by the ACC.
 - b. Provides an exemption for certain filings.
6. Adds that statute relating to corporation, or limited liability company, civil liability for false filings does not prevent the award of equitable remedies.

Corporation Actions

Attachment 6

7. Adds a corporation has the power to take any lawful action to pursue any purpose, including a nonmonetary purpose or to create any private or public benefit.
8. Clarifies an action may be taken without a meeting provided there is written consent of shareholders of at least the minimum number of votes necessary to authorize the action at a meeting.
9. States the action taken by the written consent of the shareholders must be signed by at least the minimum number of votes necessary to authorize the action and be delivered to the corporation for inclusion in corporate records.
10. Requires an action taken without a shareholder's meeting to be taken by all shareholders and evidenced by written consent of all shareholders if any of the following applies:
 - a. The action involves the election or removal of a director,
 - b. The bylaws require an action taken without a meeting be taken by all shareholders of a corporation,
 - c. The corporation is an issuing public corporation,
 - d. The corporation was formed prior to the effective date of this act, unless the corporation amends its bylaws to allow for such action.
11. Authorizes written consents to include electronic transmission and requires consents to be appropriately maintained by the corporation.
12. Requires a notice be given within 30 days of a corporate action taken without a meeting to:
 - a. Each shareholder who did not consent to the action in writing,
 - b. Each shareholder who would have been entitled to notice of the meeting.
13. Requires consents describing an action taken by directors without a meeting to be signed by each director in the aggregate.
14. Authorizes written or electronic transmission of consents and signatures, of which must be appropriately maintained in corporate records.
15. Instructs a director, in determining a corporation's best interest, to consider the effect of a proposed action or inaction on the shareholders.
 - a. States a director may consider the effects of any action or inaction on the long-term and short-term interests of the corporation, shareholders, and any other group and other pertinent factors that the director deems appropriate.
16. Specifies the best interest of a corporation do not require that any particular interests be given priority over other interests, unless states in the corporations rules or bylaws.

Remote Communication

17. Permits shareholders to participate in meetings conducted through the use of any means of remote communication.
18. Allows shareholders not physically present at a meeting, but by means of remote communication to:
 - a. Participate in a meeting of shareholders, and
 - b. Be deemed present in person and vote, provided the corporation:
 - i. Implements reasonable measures that verify a shareholder and provide an opportunity to participate and vote,
 - ii. Maintains a record of the vote for shareholders taking action by remote communication.

19. Requires all votes to be in writing.
 - a. Votes may be submitted by electronic means if authorization for the vote can be verified and allowed under the bylaws of the corporation.

Proxies

20. Allows a shareholder, the shareholder's agent or an attorney-in-fact to appoint a proxy to vote or otherwise act for the shareholder by signing an appointment form or by an electronic transmission.
 - a. Electronic transmission must contain information on the date of the transmission and that the transmission was authorized by the sender.
21. Clarifies an appointment of a proxy is effective when the inspector of election receives a signed appointment form or an electronic transmission of the appointment.
 - a. An appointment is valid for a period stated in the appointment form or 1 year, unless expressly provided in bylaws.
22. Authorizes an inspector of election to receive a written notice of the death or incapacity of a shareholder appointing a proxy.

Shareholder Agreements

23. Extends the validity of a shareholder agreement authorized in statute from a period of 10 years to the duration of the corporation's existence.
24. Limits the enforceability of a shareholder agreement to persons with standing.

Foreign Corporation

25. Modifies the information contained in the application for a foreign corporation to transact business in this state.
26. Clarifies a foreign corporation must amend its application for authority under specified occurrences.

Miscellaneous

27. Asserts the enumeration of powers and interests of a benefit corporation does not imply that they do not exist in or may not be considered by any other type of corporation. Additionally, any corporation formed under Title 10 has the powers of a benefit corporation and a director may consider any interests that may be considered by a director of a benefit corporation in determining what is in the best interests of the corporation.
28. Applies the standards of conduct and associated statutory presumptions to directors and officers of benefit corporations.
29. Reduces the period of time that an applicable felony or court action must be reported on a certificate of disclosure for incorporation of a corporation or benefit corporation from seven years to five years.
30. Adds that the notice for claims against a dissolved corporation must state that that a claim is barred unless a proceeding is commenced within five years after publication or before the expiration of any other applicable limitations period, whichever is earlier.
31. Specifies statute relating to claims against a dissolved corporation does not extend or lengthen any otherwise applicable time period during which claims may be brought against the corporation.
32. Defines *electronic transmission*, *enforcement proceeding*, and *nonmonetary purpose*.
33. Makes clarifying changes.

ARIZONA HOUSE OF REPRESENTATIVES
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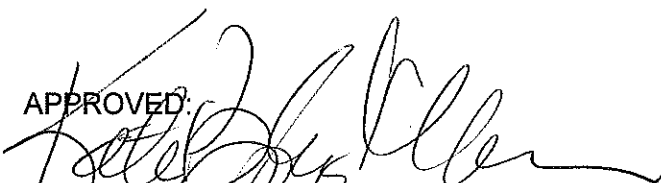
ROLL CALL VOTE

COMMITTEE ON BANKING AND FINANCIAL SERVICES BILL NO. SB 1356

DATE March 15, 2016 MOTION: DP

| | PASS | AYE | NAY | PRESENT | ABSENT |
|-----------------------------|------|-----|-----|---------|--------|
| Mr. Allen J | | | ✓ | | |
| Mr. Espinoza | | ✓ | | | |
| Mr. Farnsworth E | | ✓ | | | ✓ |
| Mrs. Gabaldón | | ✓ | | | |
| Ms. McCune Davis | | | ✓ | | |
| Mrs. Norgaard | | ✓ | | | |
| Mr. Weninger, Vice-Chairman | | ✓ | | | |
| Mrs. Brophy McGee, Chairman | | ✓ | | | |
| | | 5 | 2 | 0 | 1 |

APPROVED:


KATE BROPHY MCGEE, Chairman
JEFF WENINGER, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 7



HOUSE OF REPRESENTATIVES

SB 1413

fiduciary access to digital assets.

Prime Sponsor: Senator Driggs, LD 28

X Committee on Banking and Financial Services

Caucus and COW

House Engrossed

OVERVIEW

SB 1413 adopts the Revised Uniform Fiduciary Access to Digital Assets Act (Act) as developed by the Nation Conference of Commissioners on Uniform State Laws which governs the disclosure of certain types of digital assets.

PROVISIONS

Applicability

1. Applies the Act to the following:
 - a. A fiduciary acting under a will or power of attorney,
 - b. A personal representative acting for a decedent who is deceased,
 - c. A conservatorship proceeding,
 - d. A trustee acting under a trust, and
 - e. A custodian, if the user resides or has resided in this state at the time of the user's death.
2. Exempts a digital asset of an employer used by an employee in the ordinary course of the employer's business from the Act.

User Direction for Disclosure

3. Allows a user to use an online tool to direct the custodian to disclose to a designated recipient some or all of the user's digital assets.
4. Stipulates that a direction regarding disclosure using an online tool overrides a contrary direction by the user in a will, trust, or other record, if the online tool allows the user to modify a direction at all times.
5. States the user may allow or prohibit disclosure to a fiduciary of some or all of the user's digital assets, if the user has not used or if the custodian has not provided an online tool.
6. Asserts the user's direction overrides a contrary provision in a terms-of-service agreement that does not require the user to act affirmatively and distinctly from the user's assent.

Procedure for Disclosure

7. Authorizes a custodian, when disclosing digital assets, to do any of the following:
 - a. Grant a fiduciary full access to the user's account or partial access sufficient enough to perform any charged tasks.
 - b. Provide a fiduciary a copy in a record of any digital asset that the user could have accessed if the user were alive and had full access to the account.
8. Allows a custodian to charge a reasonable fee for the cost of disclosing digital assets.
9. Specifies a custodian does not need to disclose a deleted digital access.

10. Stipulates that if a direction or request to disclose some of the user's digital assets would impose an undue burden on the custodian in the segregation of the assets, the custodian does not need to disclose the assets.
 - a. The custodian or fiduciary may seek a court order to disclose any of the following:
 - i. A subset limited by date of the user's digital assets,
 - ii. All of the user's digital assets to the fiduciary,
 - iii. None of the user's digital assets, or
 - iv. All of the user's digital assets to the court for review in camera.

Disclosure of Digital Assets

11. Stipulates that, if a deceased user consented or a court directs disclosure of the contents of electronic communications of the user, the custodian must disclose the content to the personal representative of the user provided the representative gives the custodian certain specified information relating to the user.
12. Requires a custodian to disclose, unless the user prohibited disclosure or the court directs otherwise, a catalogue of electronic communications by the user and digital assets, other than the content of electronic communications of the user, if the representative gives the custodian certain specified information relating to the user.
13. Requires a custodian to disclose the content, to the extent a power of attorney grants an agent authority over the content of electronic communications by the principal and unless directed otherwise by the principal or the court, to the agent provided the agent gives the custodian certain specified information.
14. Requires a custodian to disclose, unless otherwise ordered by the court, directed by the principal to an agent with specific authority over digital assets or general authority to act on behalf of a principal a catalogue of electronic communications by the principal and digital assets, other than the content of electronic communications, of the principal provided the agent gives the custodian certain specified information.
15. Stipulates that a custodian must disclose any digital asset of the account held in trust to a trustee that is an original user of an account, unless otherwise ordered by the court or provided in a trust.
16. Requires a custodian to disclose, unless ordered or directed otherwise, the content of an electronic communication by an original or successor user and carried, maintained, processed, received or stored by the custodian in the account of the trust to a trustee that is not an original user of an account, if the trustee gives the custodian certain specified information.
17. Requires a custodian to disclose, unless ordered or directed otherwise, a catalogue of electronic communications by an original or successor user and stored, carried, or maintained by the custodian in an account of the trust and any digital assets, other than the content of electronic communications, in which the trust has a right or interest to a trustee that is not an original user of an account, if the trustee gives the custodian certain specified information.
18. Authorizes a conservator access to the digital assets of a protected person after a court hearing.
19. Stipulates that a custodian must disclose, unless ordered or directed otherwise, the catalogue of electronic communications by a protected person and any digital assets, other than the

content of electronic communications, which the protected person has a right or interest to a conservator provided that the conservator gives the custodian certain specified information.

20. Allows a conservator to request a custodian of the digital assets of a protected person to suspend or terminate an account of the protected person for good cause.

Fiduciary Authority

21. Asserts the legal duties imposed on a fiduciary apply to the management of digital assets.
22. States a fiduciary's authority with respect to a digital asset of a user: 1) is subject to the applicable terms of service, 2) is subject to other applicable laws, 3) is limited by the scope of the fiduciary's duties, and 4) cannot be used to impersonate the user.
23. Asserts a fiduciary has the right to access any digital asset of a decedent, protected person, principal or settlor in which the fiduciary has the authority over.
24. Specifies a fiduciary acting within the scope of their duties is an authorized user of property for the purpose of applicable computer-fraud laws.
25. Specifies a fiduciary with authority over the tangible, personal property of a decedent, protected person, principal or settlor:
 - a. Has the right to access the property, and
 - b. Is an authorized user for the purpose of computer-fraud laws.
26. Allows a custodian to disclose information in an account to a fiduciary of the user when the information is required to terminate an account used to access digital assets licensed to the user.
27. Allows a fiduciary to request a custodian to terminate the user's account.
 - a. The request must be in writing and be accompanied by certain specified information.

Miscellaneous

28. Asserts the Act:
 - a. Does not change or impair a right of a custodian or a user under an agreement to access and use digital assets of the user.
 - b. Does not give a fiduciary any new or expanded rights other than those held by the user for whom the fiduciary represents.
29. States the fiduciary's access to digital assets may be modified by a user, federal law, or a terms-of-service agreement, if the user has not provided direction.
30. Requires a custodian to comply with a request under the Act from a fiduciary to disclose digital assets or terminate an account within 60 days.
 - a. A fiduciary may apply for a court order for noncompliance.
 - b. The court order must contain a finding stating the compliance is violating federal law regarding voluntary disclosure of customer communications or records.
31. Authorizes a custodian to notify the user that a request for disclosure or to terminate an account was made under the Act.
32. Allows a custodian to deny a request from a fiduciary for disclosure of digital assets or to terminate an account if the custodian is aware of any lawful access to the account.
33. States the Act does not limit a custodian's ability to obtain a court order that:
 - a. Specifies that an account belongs to the protected person or principal.

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- b. Specifies that there is sufficient consent from the protected person or principal to support the requested disclosure.
 - c. Contains a finding required by another law.
34. Exempts a custodian and its officers, employees and agents from liability for an act or omission done in good faith.
35. Acknowledges that uniformity must be considered in the application and construction of this Act.
36. Asserts the Act supersedes federal law only as applicable.
37. Defines pertinent terms.

ADDITIONAL INFORMATION

The Uniform Law Commission (ULC, also known as the National Conference of Commissioners on Uniform State Laws), established in 1892, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

In 2015, the ULC developed the Revised Uniform Fiduciary Access to Digital Assets Act, which extends the traditional power of a fiduciary to manage tangible property to include management of a person's digital assets. To date, 18 other states have introduced version of the Act.

SB 1413 is similar to HB 2467 which passed out of the House by a vote of 55-4-1.

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session


ROLL CALL VOTE

COMMITTEE ON BANKING AND FINANCIAL SERVICES BILL NO. SB 1413

DATE March 15, 2016 MOTION: DP

| | PASS | AYE | NAY | PRESENT | ABSENT |
|-----------------------------|------|-----|-----|---------|--------|
| Mr. Allen J | | ✓ | | | |
| Mr. Espinoza | | ✓ | | | |
| Mr. Farnsworth E | | | | | ✓ |
| Mrs. Gabaldón | | ✓ | | | |
| Ms. McCune Davis | | ✓ | | | |
| Mrs. Norgaard | | ✓ | | | |
| Mr. Weninger, Vice-Chairman | | ✓ | | | |
| Mrs. Brophy McGee, Chairman | | ✓ | | | |
| | | 7 | 0 | 0 | 1 |

APPROVED:


KATE BROPHY MCGEE, Chairman
JEFF WENINGER, Vice-Chairman


COMMITTEE SECRETARY

ATTACHMENT 9

ARIZONA STATE LEGISLATURE
Fifty-second Legislature - First Regular Session

COMMITTEE ATTENDANCE RECORD

COMMITTEE ON BANKING AND FINANCIAL SERVICES

CHAIRMAN: Kate Brophy McGee VICE-CHAIRMAN: Jeff Weninger

| DATE | 3/8/16 | 3/ /16 | /16 | /16 | /16 |
|-----------------------------|-----------|-----------|-----|-----|-----|
| CONVENED | 2:09 p.m. | 4:51 p.m. | m | m | m |
| RECESSED | | | | | |
| RECONVENED | | | | | |
| ADJOURNED | 2:17 p.m. | 5:44 p.m. | | | |
| MEMBERS | | | | | |
| Mr. Allen J | ✓ | ✓ | | | |
| Mr. Espinoza | ✓ | ✓ | | | |
| Mr. Farnsworth E | ✓ | ✓ | | | |
| Mrs. Gabaldón | ✓ | ✓ | | | |
| Ms. McCune Davis | ✓ | ✓ | | | |
| Mrs. Norgaard | ✓ | ✓ | | | |
| Mr. Weninger, Vice-Chairman | ✓ | ✓ | | | |
| Mrs. Brophy McGee, Chairman | ✓ | ✓ | | | |

✓ Present --- Absent exc Excused